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UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re	)	Case No. 09-60965-11
	)	
JEANNE RIZZOTTO,	)	
	)	
Debtor.	)	

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MOTION TO CONVERT TO CHAPTER 7 OR DISMISS; AND NOTICE

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Acting United States Trustee Robert D. Miller Jr., through his attorney, Daniel P. McKay, pursuant to 11 U.S.C. § 1112(b), F.R.B.P. 1017, and Mont. LBR 1017-1, respectfully moves the Court to convert the above entitled case to a case under chapter 7 of the Bankruptcy Code or to dismiss, whichever is in the best interest of creditors and the estate. The grounds for this motion are as follows:

1. The Debtor has not paid quarterly fees for the second quarter of 2010, which became due and payable under 28 U.S.C. § 1930(a)(6) on the 31<sup>st</sup> day of July, 2010. Failure to pay the fees is grounds for conversion under 11 U.S.C. § 1112(b)(4)(K).

2. The Debtor has failed to file a Monthly Operating Report for the month of July, 2010, which was due to be filed on the 14<sup>th</sup> day of August, 2010. Failure to file the report is grounds for conversion under 11 U.S.C. § 1112(b)(4)(F).

WHEREFORE, the United States Trustee moves the Court to convert the above entitled case to a case under chapter 7 of the Bankruptcy Code or to dismiss, whichever is in the best

interest of creditors and the estate

DATED this 26<sup>th</sup> day of August, 2010.

Respectfully Submitted

ROBERT D. MILLER JR.  
Acting United States Trustee

/s/ Daniel P. McKay  
DANIEL P. MCKAY  
Attorney for United States Trustee

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**NOTICE**

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**If you object to the motion, you must file a written responsive pleading and request a hearing within ten (14) days of the date of the motion. The responding party shall schedule the hearing on the motion at least twenty (21) days after the date of the response and request for hearing and shall include in the caption of the responsive pleading the date, time and location of the hearing by inserting in the caption the following:**

**NOTICE OF HEARING**

**Date:** \_\_\_\_\_

**Time:** \_\_\_\_\_

**Location:** \_\_\_\_\_

**If no objections are timely filed, the Court may grant the relief requested as a failure to respond by any entity shall be deemed an admission that the relief requested should be granted.**

DATED this 26<sup>th</sup> day of August, 2010.

/s/ Daniel P. McKay  
DANIEL P. MCKAY

**CERTIFICATE OF MAILING**

I, the undersigned, Attorney for Office of U.S. Trustee, do hereby certify under penalty of perjury that a copy of the within and foregoing Motion to Convert to Chapter 7 or Dismiss; and Notice was mailed on the 26<sup>th</sup> day of August, 2010, at Great Falls, Montana, and directed to the following:

Jeanne Rizzotto  
P.O. Box 21  
Roberts, MT 59070

/s/ Daniel P. McKay  
Daniel P. McKay